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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 CAMERON LUNDQUIST, an individual,
10 and LEEANA LARA, and individual, on
behalf of themselves and all others
similarly situated,

11 Plaintiffs,

12 v.

13 FIRST NATIONAL INSURANCE
14 COMPANY OF AMERICA, a New
Hampshire Corporation, LM GENERAL
INSURANCE COMPANY,

15 Defendants.

CASE NO. 18-5301 RJB

ORDER ON PLAINTIFFS'
MOTION FOR LEAVE TO AMEND
COMPLAINT AND ADD
ADDITIONAL PARTY

16 This matter comes before the Court on the Plaintiffs' Motion for Leave to Amend
17 Complaint and Add Additional Party. Dkt. 83. The Court has considered the pleadings filed
18 regarding the motion and the remaining record.

19 **FACTS**

20 In this putative class action, the Plaintiffs assert that Defendants' practice of using
21 unexplained and unjustified condition adjustments to comparable vehicles when valuing a total
22 loss claim for a vehicle, violates the Washington Administrative Code ("WAC"), specifically
23 WAC 284-30-391 (4)(b) and (5)(d), and so constitutes: (1) breach of contract, (2) breach of the
24 implied covenant of good faith and fair dealing, and (3) violation of Washington's Consumer

1 Protection Act, RCW 19.86., *et seq.* (“CPA”). Dkt. 1. First National Insurance Company of
2 America’s (“First National”) motion to dismiss for failure to state a claim under Fed. R. Civ. P.
3 12 (b)(6) was denied on July 9, 2018. Dkt. 33.

4 After some discovery, Plaintiff Lundquist timely moved for, and was granted, leave to
5 amend the complaint to add Plaintiff Leena Lara and Defendant LM General Insurance
6 Company, (“LM General”). Dkt. 52. Further discovery occurred. On December 5, 2018, the
7 parties, including the newly added parties, stipulated to an extension of the case schedule, which
8 was granted. Dkt. 57.

9 On March 2, 2019, the Plaintiffs’ motion for leave to add an additional party, CCC
10 Information Services (“CCC”), and motion for a six-month extension of all case deadlines was
11 granted. Dkt. 82. The Plaintiffs were given until April 12, 2019 to file a proposed amended
12 complaint. *Id.*

13 On April 4, 2019, the Plaintiffs filed the instant motion to amend the complaint to: (1)
14 add CCC as a Defendant, (2) make a claim for violation of the CPA against CCC, and (3) add a
15 Washington state civil conspiracy claim against CCC and the remaining Defendants. Dkt. 83.
16 The Plaintiffs attached a red-lined version of the proposed amended complaint to their motion.
17 Dkt. 83-1.

18 The Defendants do not oppose the addition of CCC as a Defendant or the assertion of the
19 CPA claim against CCC. Dkt. 85. They raise concerns over potential extension of the case
20 schedule. *Id.* They further oppose the addition of the civil conspiracy claim against them,
21 asserting that they are prejudiced by its late addition and that it is futile. *Id.* The Plaintiffs
22 replied (Dkt. 87) and the motion is ripe for decision.

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The Plaintiffs' Motion for Leave to Amend Complaint and Add Additional Party (Dkt. 83) should be granted. There is no showing here of bad faith, undue delay, futility, or undue prejudice as to the addition of CCC as a defendant or the addition of the CPA claim against CCC. Although the Defendants express concern about a delay in the case schedule, there is no motion for an extension of the case schedule pending, so that issue is not before the Court.

ORDER ON PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT AND ADD ADDITIONAL
PARTY - 3

Wn. App. 824, 840, 47 P.3d 567, 575 (2002)(*internal quotation marks and citations omitted*).
“Mere suspicion is not a sufficient ground upon which to base a finding of conspiracy.” *Corbit*,
at 529. While the claim appears difficult to establish given this standard, the undersigned cannot
say that it is futile to allow addition of the civil conspiracy claim at this time. The Plaintiffs’
proposed amended complaint asserts that the Defendants entered into “agreements to accomplish
unlawful purposes, to wit, the breach of the insurance contracts (including the provisions of
Washington law that dictate the method by which total loss claims are valued) and Washington’s
prohibitions of unfair and deceptive claims handling practices.” Dkt. 83-1, at 19. While the
Plaintiffs could have pled the claim with more clarity, it is sufficient, and amendment is not
futile.

The Plaintiffs should file a clean version of their amended complaint on or before **May 6, 2019**.

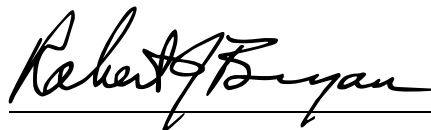
ORDER

Therefore, it is hereby **ORDERED** that:

- The Plaintiffs’ Motion for Leave to Amend Complaint and Add Additional Party (Dkt. 83) **IS GRANTED**; and
- The Plaintiffs **SHALL FILE** a clean version of their amended complaint on or before **May 6, 2019**.

The Clerk is directed to send uncertified copies to all counsel of record and to any party appearing pro se at their last known address.

Dated this 24th day of April, 2019.



ROBERT J. BRYAN
United States District Judge